



WP.No.3160 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2023

CORAM

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

WP.No.3160 of 2020

N.Chandrasekaran

...petitioner

Vs.

1. The Secretary to Government,
Municipal Administration & Water Supply Department,
Secretariat, Chennai 600 009.
2. The Commissioner of Municipal Administration,
Santhome High Road,
Chennai 600 028.
3. The Director of Local Fund Audit,
Integrated Complex for Finance Department,
Animal Husbandry Hospital Campus,
Nandanam,
Chennai 600 035.
4. The Commissioner,
Sirkali Municipality,
Sirkali,
Nagapattinam District.

...respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the third respondent in



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Proceedings Moo. Mu. No.033993/Na. O. Sa. (5)/2019, dated 20.12.2019 and quash the same and consequently direct the respondents to grant pension and other pensionary benefits to the petitioner under the Tamil Nadu Pension Rules 1978 counting 50% service rendered as N.M.R. on daily wages basis from 01.04.1994 to 08.10.1999 with interest at the rate of 12% per annum with effect from the date of his retirement on 30.06.2019 with all consequential service and monetary benefits.

For Petitioner : Mr.R.Prem Narayan

For Respondents
for RR1 & 2 : Mr.D.Gopal, G.A.
for RR4 : Mr.M.Venugopal

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to quash the order issued by the third respondent in Proceedings Moo. Mu. No.033993/Na. O. Sa. (5)/2019, dated 20.12.2019 and consequently direct the respondents to grant pension and other pensionary benefits to the petitioner under the Tamil Nadu Pension Rules 1978 counting 50% service rendered as N.M.R. on daily wages basis from 01.04.1994 to 08.10.1999 with interest at the rate of 12% per annum with effect from the date of his retirement on 30.06.2019 with all consequential service and monetary benefits.



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2. It is the case of the petitioner that he was working as N.M.R.

on daily wages in Sirkali Municipality from 01.04.1994 to 08.10.1999.

Subsequently, he was appointed as Mini Lorry Driver on 09.10.2000 in regular time scale of pay. The petitioner's service was regularised from 09.10.2000 and his probation was declared from 09.10.2002. On attaining the age of superannuation, he was retired from service on 30.06.2019. After his retirement, the fourth respondent forwarded his pension proposals to the third respondent. The third respondent vide impugned proceedings returned the same. Hence, the present Writ Petition.

3. The learned counsel for the petitioner by relying upon the Tamil Nadu Pension Rules 1978 submitted that the petitioner is entitled for pension. Even a person who has put in very meager years of service is entitled to pension. That apart, Rule 45(A) of Tamilnadu Pension Rules provides interest on delayed payment on gratuity.

4. Further, the learned counsel for the petitioner in support of his contention has relied on the following decisions of the Hon'ble Supreme Court:-



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(i) Deoki Nandan Prasad Vs. State of Bihar and Others reported in (1971) 2 SCC 330

(ii) State of Jharkhand Vs. Jitendra Kumar Srivatsava reported in (2013) 12 SCC 210

(iii) Dr.Uma Aggarwal Vs. State of U.P. Reported in (1999) 3 SCC 438

(iv) Gorakhpur University Vs. Dr.Shitla Prasad Nagendra reported in (2001) 6 SCC 591

(v) SK Dua Vs. State of Hariyana reported in 2008 3 SCC 44

5. Heard the learned counsel on either side and perused the documents placed on record.

6. It is an admitted fact that the petitioner was working as N.M.R. on daily wages from 01.04.1994 to 08.10.1999 in Sirkali Municipality. Subsequently, he was appointed as Mini Lorry Driver on 09.10.2000 in regular time scale of pay. The petitioner's service was regularised from 09.10.2000 and his probation was declared from 09.10.2002. Then he was retired from service on attaining the age of superannuation on 30.06.2019. Based on the order issued by the



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1st respondent in G.O.(Ms) No.125, the Municipal Administration and water Supply Department dated 27.05.1999, the petitioner's service was regularised by the fourth respondent-Municipality by proceedings dated 20.12.2010.

7. It is pertinent to point out that the Additional Chief Secretary to Government has addressed a Letter (3pa) No.02 dated 08.03.2023 to the third respondent regarding clarification of granting of pension and family pension. On a perusal of the same, at paragraph no.9 it is stated that the employees, who were appointed after 30.04.1997 on consolidated pay and regularised before 01.04.2003 [before commencement of contributory pension scheme] are entitled for retirement benefits and their legal heirs are entitled for pension.

8. Considering the fact that the petitioner was initially appointed as an NMR in the 4th respondent Municipality on 01.04.1994 and subsequently appointed as Mini Lorry Driver on 09.10.2000 in regular time scale of pay and pursuant to the order issued by the 1st respondent in G.O.(Ms) No.125, the Municipal Administration and water Supply Department dated 27.05.1999, the petitioner was regularised by



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the fourth respondent-Municipality by its proceedings dated 20.12.2010 and the same squarely covers under the clarification issued by the Additional Chief Secretary to Government vide Letter (3pa) No.02 dated 08.03.2023. Therefore, this Court is of the view that the petitioner is entitled for pension.

9. In view of the above, the present writ petition is allowed and the respondents are hereby directed to calculate the pension and appropriate amount shall be paid to the petitioner immediately, within a period of eight weeks without any further delay. No costs.

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Index : Yes/No
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To

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